

AMENDMENTS TO THE DRAWINGS:

The attached drawing includes changes to FIG. 4. The reference numerals for the cap 200, crown 210 and sweat band 230 are more clearly illustrated.

REMARKS

In accordance with the foregoing, FIG. 4, the specification and claims 4 and 5 have been amended. Claim 14 has been added. Claims 1-14 are pending and under consideration.

It is respectfully submitted that the present amendments to the Specification and Drawings overcome the objection to the drawings.

The title of the invention is amended herein, thereby overcoming the objection thereto.

Regarding the objection to the presence of underlining in the subject headings, it is noted that 37 C.F.R. 1.77 indicates that the section heading "should" be without underlining. The use of the term "should" indicates that this is only a guideline. There is no requirement that there "must" be no underlining. Thus, the objection is respectfully traversed.

The objection to claim 4 is overcome by the amendment thereto.

The rejection under 35 U.S.C. § 112, first paragraph, is respectfully traversed. The Examiner appears to be challenging the statement in the Specification that the fibers twisted over 800 times per meter would be elastic. However, the Specification states that these fibers are only "slightly elastic," thus any amount of elasticity would be consistent with the statements in the Specification.

The rejection under 35 U.S.C. § 112, second paragraph, is respectfully traversed. Page 6, lines 21-22 of the present Specification indicate that the high twist yarn generally is made of non-stretchable fibers that are twisted over 800 times per meter, thereby establishing the parameters of the term "high" in the claims.

The rejections under 35 U.S.C. §§102 and 103 are now discussed.

With respect to Whang, it is noted that claim 1 recites a head receiving portion including a first stretchable fabric made of a high twist yarn. As set forth in the Specification, an advantage of the use of this material is that there are slight expansion properties, thereby reducing pressure on the head of a user while still being able to stretch to a good fit.

The Examiner relies upon column 3, lines 5-12 of the reference. This portion discloses a cap that relies upon the alignment of the gores for flexibility, as opposed to elastics. However, this reference does not disclose that these inelastic gores are formed of a high twist yarn. It appears that the Examiner interprets the disclosure of an inelastic material in Whang to include the use of any inelastic material. However, it is submitted that this is an unreasonably broad interpretation of the reference, since the emphasis in Whang generally applies to the alignment of the fabric, not the fabric material.

The Examiner supplements his position by referring to Hooke's Law, stating that it teaches that all materials have the ability to stretch and recover. However, not all materials have the proper elasticity to conform to the user's head without applying too much pressure. Thus, the basic premise that all materials can expand cannot anticipate the use of high twist yarn in the present invention.

With respect to Higgs, this reference similarly does not disclose a high twist yarn. The Examiner relies upon the terry toweling 12, however there is no disclosure that this element is a high twist yarn. In fact, Higgs generally discloses that it is desirable to maximize expansion of the elastic band 13. Thus, the terry toweling 12 is attached to the elastic band 13 with the elastic band 13 in an expanded state. Higgs, p. 9, ln. 29 to p. 30, ln. 6. Since Higgs discloses allowing free expansion of the elastic band 13, the toweling 12 would not be of a high twist yarn. Higgs does this to overcome limitations of the prior art of this reference, in which the expansion of the sweatband is inhibited. Higgs, p. 3, ln. 17-19.

Furthermore, it is respectfully submitted that the combination of Higgs and Whang is improper. Whang is directed to eliminating the use of elastics, stating that a disadvantage of such material is overstretching. Whang, col. 1, ln. 46-48. In contrast, a goal of Higgs is to maximize stretchability of elastics. Since the two references teach against each other, one of ordinary skill in the art would not have been motivated to combine them.

Nebeker does not overcome the above deficiencies in Higgs and Whang, and is not relied on by the Examiner to do so.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.


Serial No. 10/763,224

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: 11-21-05

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